

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JOE BIDWELL,

Plaintiff,

v.

COMMISSIONER, SSA,

Defendant.

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CIVIL ACTION NO. 4:15CV791
JUDGE MAZZANT/JUDGE JOHNSON

MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Came on for consideration the report of the United States Magistrate Judge in this action, the matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On January 26, 2017, the report of the Magistrate Judge (Dkt. #22) was entered containing proposed findings of fact and recommendations that the decision of the Administrative Law Judge (“ALJ”) be affirmed in part and remanded in part.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge’s report as the findings and conclusions of the court.

It is, therefore, **ORDERED** that the decision of the Commissioner is **AFFIRMED IN PART AND REMANDED IN PART**. The Commissioner’s decision finding that Plaintiff did not meet or equal listing 4.05 disability at step three of the analysis is **AFFIRMED**. However, the ALJ erred in applying the “younger person” age category without explanation at step five of the analysis. Thus, the Court remands the case to the ALJ to reconsider whether applying the “closely

approaching advanced age” category to Plaintiff is proper in accordance with the Report (Dkt. #22), and render a decision accordingly.

IT IS SO ORDERED.

SIGNED this 24th day of February, 2017.

A handwritten signature in black ink, reading "Amos Mazzant", written over a horizontal line.

AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE